U.S. ARMY CHEMICAL MATERIALS AGENCY

Successfully Integrating NEPA and Environmental Permitting into a DoD Hazardous Waste Treatment Facility Construction Project to Meet Budget and Schedule

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C R E A T I N G A S A F E R T O M O R R O W

Discussion Points

- Background
- Integrating NEPA, Environmental Permitting, Contracting, and Budget Submittals into an Integrated, Realistic and Achievable Schedule
- Conclusions

Background

- Army Authority to Destroy the Nation's Chemical Warfare Stockpile Rests on Federal Statutes and an International Treaty
- Destruction Program was Initiated in 1985
- Initial Congressionally Mandated Destruction Completion Date for 90% of the Stockpile was 30 September 1994
- Several Public Laws Extended this Date to December 2004
- The Ratified Treaty Requires the Entire Stockpile to be Destroyed by 29 April 2007, with up to a 5-Year Extension Possible

Integrating NEPA, Environmental Permitting, Contracting and Budget Cycle Submittals into a Realistic, Achievable Schedule

- NEPA is the Initial Critical Path Activity
  - Schedule is Essentially Controlled by the Government
  - No “Proposed Action” Activities May be Taken that Would Have an Adverse Environmental Impact or Limit Alternatives
  - Does Not Preclude Preliminary Planning or Facility Design Work
  - Does not Preclude Submittal of Environmental Permit Applications or Advertising a Systems Contract Request For Proposals (RFP)
  - Systems Contract Award Can Only Occur After the ROD is Signed and Published

- Prepare Update Reports….Records of Environmental Consideration

- Environmental Permitting is the Secondary Critical Path Activity
  - Schedule is Essentially Controlled by the Regulators
  - Submitting Permit Applications is not a “Commitment” But May Create an Appearance of a Pre-ROD Decision
  - To Mitigate any Legal Challenges, State in the Permit Applications that the NEPA Analysis is Still Ongoing and Modification Requests May be Submitted as a Result of the NEPA Process
  - Systems Contracts May Only be Awarded Post-ROD and Pre-Permit Issuance With a Limited Notice to Proceed
  - With Regulatory Approval, Limited Construction, to Include Some Utilities and Support Facilities, May Commence, i.e., Outside of the Regulated Facility Foot Print

Integrating NEPA, Environmental Permitting, Contracting, and Budget Cycle Submittals into a Realistic, Achievable Schedule

- Systems Contract Award is the Tertiary Critical Path Activity
  - Schedule is Controlled by the Government
  - Advertising an RFP is Not an Irreversible, Irretrievable Commitment of Resources and is Therefore Acceptable Pre-ROD and Pre-Permit Issuance
  - The Solicitation Should State That Contract Award Will be Made Post-ROD, Contain a Projected ROD Date, and the Duration Period for Proposal Acceptance Post-ROD
  - Systems Contract Award Must be Post-ROD, but May be Pre-Permit With a Limited Notice to Proceed
- Budget Requests Overarch all Activities
  - Must Also be Realistic and Represent NEPA, Permitting, and Procurement Activities That are Based on an Integrated Realistic, Achievable Schedule

Conclusions

- Ideally the NEPA ROD, Environmental Permits, and Contract Award Should Occur on or Around the Same Date With Sufficient Funds in Place to Initiate Construction Activities
- Follow Parallel Path Activities with an Integrated Schedule for:
  - NEPA
  - Permitting
  - Contracting
  - Budgeting
- Know and Follow All Substantive and Procedural Requirements
- Key is Integrated, Realistic and Achievable Schedule
- There are Many Opportunities for Environmental Management Success; But Numerous Pitfalls Exist